

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii**

April 13, 2012

180-Day Exp. Date: July 7, 2012

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Conservation District Use Application (CDUA) MA-3615 Public Purpose
Subdivision of Land for Road Right-of-Way Dedication

APPLICANT: Hana Koali Mesa, LLC.

AGENT: Jordan Hart of Chris Hart & Associates

TMK: (2) 1-5-008:006

LOCATION: Koali, Hana, Maui

AREA OF USE: $\approx 11,221\text{-ft}^2$

SUBZONE: Limited

DESCRIPTION OF AREA/CURRENT USE (Exhibit A & B.4)

The subject area exists on the southeast coast of Maui, within the ahupuaa of Koali, in the moku of Hana on the island of Maui and lies within the Limited subzone of the Conservation District. This particular area of the 'Hana Highway,' is known as County Road 31 and is owned by the County of Maui. The project site abuts mauka of the road.

According to the applicant, there are no existing structures in the project area. The project area has not been graded or landscaped. There are no existing utilities. Primary access to the site is gained via the Hana Highway. It is believed that there are no threatened or endangered flora or fauna in the project site. There are no known cultural resources within the project site.

Based upon photos included with the application, the subject area appears to be a disturbed rocky cliff adjacent to a roadway with introduced grasses and brush. Trees overhang the side of the roadway. Roadway signs are located in project area.

The subject area is located between two one-lane bridges with waterfalls: the Wailua Bridge and Paihi Bridge constructed in the early 1900's. It is believed that the Hana Highway was initiated prior to the 1600's as a trail that was later expanded into a cart road, a dirt road with bridges to a paved roadway. Stories of the area note drumming and flute playing may be heard and are associated with the former Heiau sites of the area located mauka of the highway.

PROPOSED USE (Exhibit C)

Approximately 11,221-ft² of TMK: (2) 1-5-008:006 owned by Hana Koali Mesa LLC is proposed to be cleared of obstructions (including vegetation), subdivided and dedicated to the

County of Maui for road right-of-way. According to the information provided the proposed land use is a requirement of the County of Maui that has been triggered by a proposed consolidation/subdivision action by the applicant. As the clearing of vegetation may be considered maintenance, this application is for subdivision only.

SUMMARY OF COMMENTS

The Office of Conservation and Coastal Lands referred the application to the following agencies for review and comment: the Department of Land and Natural Resource's Maui District Land Office, Forestry & Wildlife, Engineering and Historic Preservation Divisions; Office of Hawaiian Affairs; the Department of Health and the Office of Environmental Quality Control; and the County of Maui's Department of Planning. In addition, this application was also sent to the nearest public library, the Hana State Public Library, to make this information readily available to those who may wish to review it.

Comments were received by the following agencies and summarized by Staff as follows:

THE STATE

DEPARTMENT OF HEALTH

No comments

DEPARTMENT OF LAND AND NATURAL RESOURCES

Engineering

According to the Flood Insurance Rate Map (FIRM), the project site is located in Flood Zone X. The Flood Insurance Program does not have any regulations for developments within Flood Zone X.

Maui District Land Office (ODLO)

No comments

OFFICE OF HAWAIIAN AFFAIRS

It is our understanding that this action is a requirement of the County of Maui and will create a dedicated 'road widening lot' that will increase the width of the right-of-way of the existing Hana Hwy.

OHA will rely on the assurances in the CDUA that there are no known cultural resources situated within the lot and that this action will not impair traditional and customary rights. We have no objections to seeing this CDUA move forward at this time.

COUNTY OF MAUI

Department of Planning

No comments

ANALYSIS

Following review and acceptance of the application, dated January 17, 2012, the Department has found that:

1. The proposed use is an identified land use in the Limited subzone of the Conservation District, pursuant to §13-5-22, Hawaii Administrative Rules (HAR), P-10, SUBDIVISION OR CONSOLIDATION OF PROPERTY, D-1, "Subdivision of property into two or more legal lots of record that serves a public purpose and is consistent with the objectives of the subzone." Please be advised, however, that this finding does not constitute approval of the proposal;
2. Pursuant to § 13-5-40 of the Hawaii Administrative Rules, a Public Hearing will not be required;
3. In conformance with Chapter 343, Hawaii Revised Statutes (HRS), as amended, and HAR, Title 11, Department of Health, Chapter 200, Environmental Impact Statement Rules, Subchapter 8, §11-200-8(a)(1), Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing, the proposed use is exempt.
4. The subject area does not appear to be located in the Special Management Area.

Notice of CDUA MA-3615 was published in the February 8, 2012, issue of the Environmental Notice.

CONSERVATION CRITERIA

The following discussion evaluates the merits of the proposed land use by applying the criteria established in §13-5-30, HAR.

- 1) *The proposed use is consistent with the purpose of the Conservation District.*

The objective of the Conservation District is to conserve, protect and preserve the important natural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety and welfare.

The proposed subdivision, should not conflict with any of the above objectives. The subdivision is for right of way purposes. Roadways contribute to maintaining public health, safety and welfare.

- 2) *The proposed land use is consistent with the objectives of the Subzone of the land on which the use will occur.*

The objective of the subzone is to limit uses where natural conditions suggest constraints on human activities. The proposed use does not conflict with these objectives, as it is a reorientation of boundaries on paper.

- 3) *The proposed land use complies with the provisions and guidelines contained in Chapter 205A, HRS entitled "Coastal Zone Management", where applicable.*

Staff believes Chapter 205A, HRS is not applicable to this proposal.

- 4) *The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community or region.*

The proposed action involves the shifting of boundary lines. Staff is of the opinion that this will not have any adverse impact on existing natural resources.

- 5) *The proposed land use, including buildings, structures and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels.*

No physical structures are proposed. The subject area abuts Hana Hwy. and is for road right of way purposes. The proposed land use appears to be compatible with the locality of Hana Highway and surrounding area.

- 6) *The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable.*

The action shall have no physical impact on the land. Therefore Staff is of the opinion that the natural beauty and open space characteristics of the Conservation District will be maintained.

- 7) *Subdivision of land will not be utilized to increase the intensity of land uses in the Conservation District.*

The proposal does not change the existing use of the area. Therefore Staff is of the opinion that the subdivision action will not increase the intensity of land uses in the Conservation District.

- 8) *The proposed land use will not be materially detrimental to the public health, safety and welfare.*

Staff is of the opinion that the proposed subdivision will not be materially detrimental to the public health, safety and welfare.

DISCUSSION

The subdivision of land is proposed for roadway dedication which serves a public purpose. The use is an identified land use pursuant to §13-5-22, Hawaii Administrative Rules (HAR), P-10, SUBDIVISION OR CONSOLIDATION OF PROPERTY, D-1, "Subdivision of property into two or more legal lots of record that serves a public purpose and is consistent with the objectives of the subzone."

The existing nonconforming land use of the area is a roadway. The proposed subdivision will facilitate this use. As no development is proposed, Staff believes the proposal is consistent with the Conservation District.

RECOMMENDATION

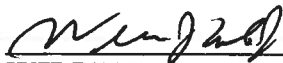
Based on the preceding analysis, Staff recommends that the Board of Land and Natural Resources APPROVE this application to subdivide approximately 11,221-ft² of TMK: (2) 1-5-008:006 for roadway dedication purposes subject to the following conditions:

- 1) The permittee shall comply with all applicable statutes, ordinances, rules, regulations, and conditions of the Federal, State and County governments;
- 2) The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim or demand for property damage, personal injury or death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors and agents under this permit or relating to or connected with the granting of this permit;
- 3) The permittee shall provide documentation (e.g. book and page or document number) that this permit approval has been placed in recordable form as a part of **each** deed instrument;
- 4) In issuing this permit, the Department has relied on the information and data that the permittee has provided in connection with this permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Department may, in addition, institute appropriate legal proceedings;
- 5) The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
- 6) Where any interference, nuisance, or harm may be caused, or hazard established by the use, the applicant shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
- 7) The permittee shall obtain the approval of the County of Maui for the subdivision and **file the final subdivision plan with OCCL**;
- 8) Other terms and conditions as may be prescribed by the Chairperson; and
- 9) Failure to comply with any of these conditions shall render this Conservation District Use Permit null and void.

Respectfully submitted,



K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands



WILLIAM J. AILA, JR., Chairperson
Board of Land and Natural Resources

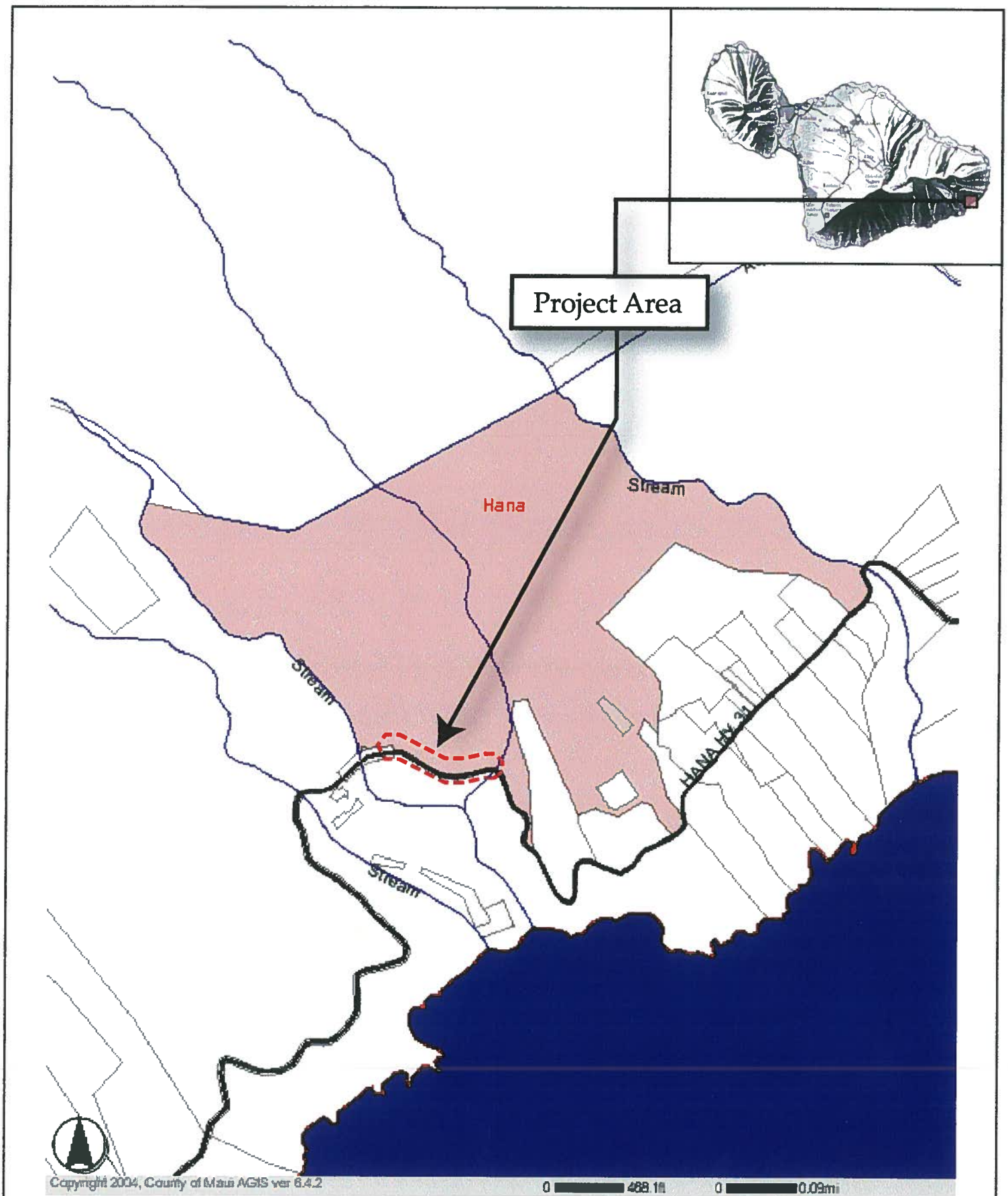


EXHIBIT A

Hana Koali Mesa Subdivision

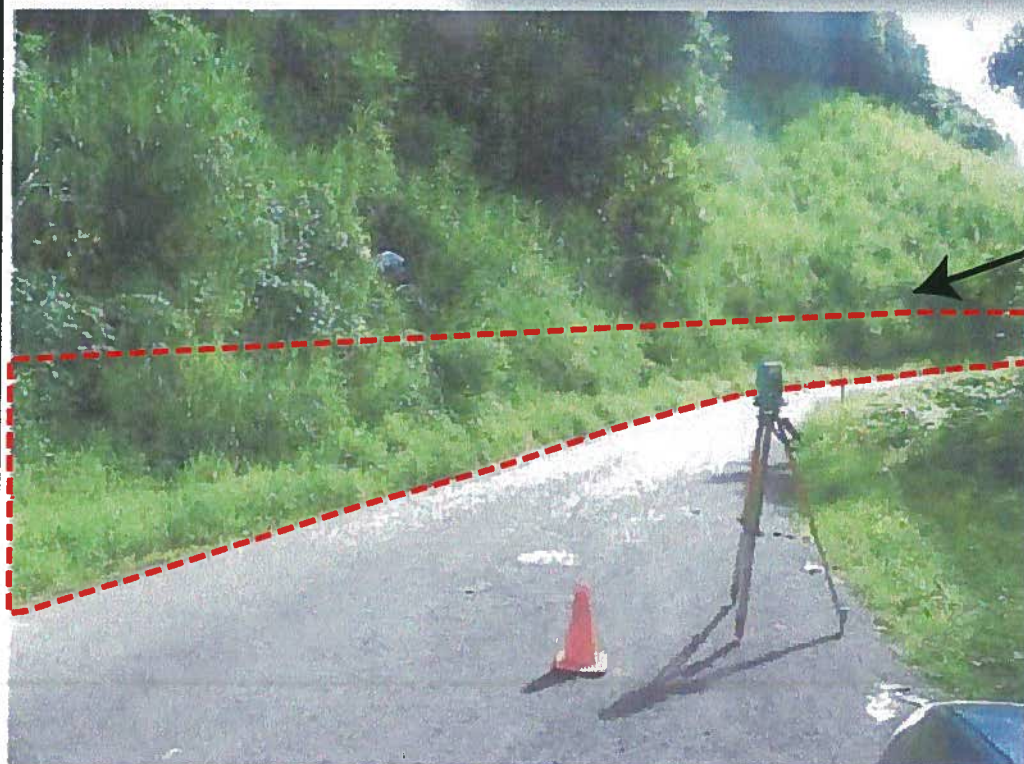
Regional Location Map

November
2011



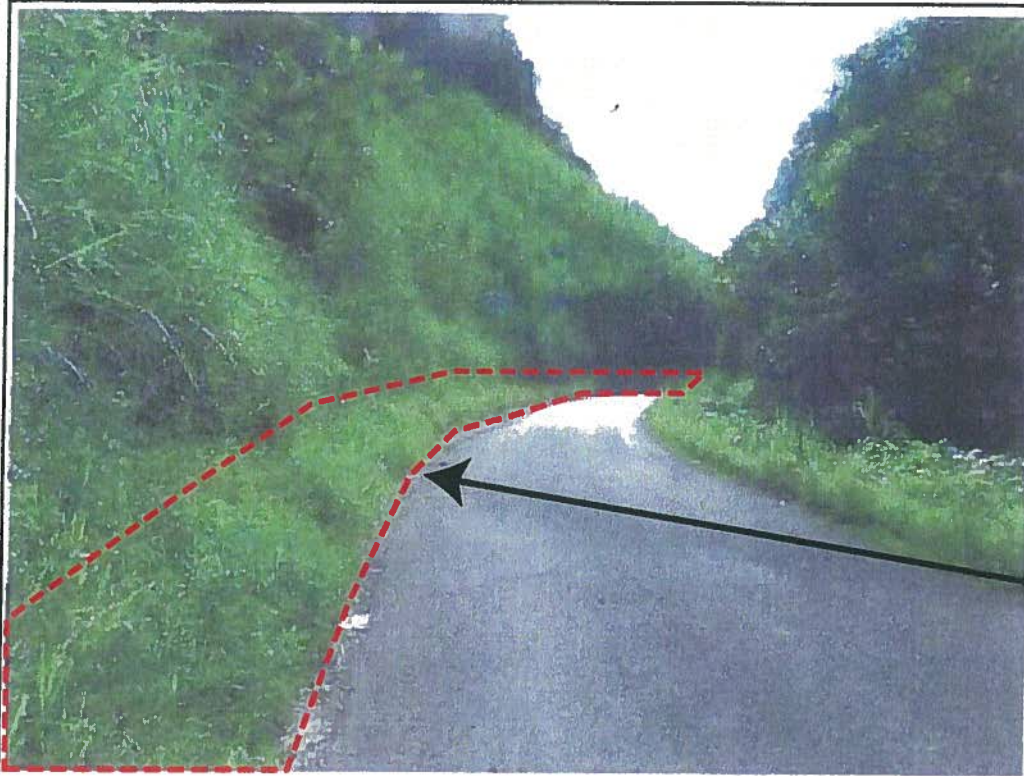


Approximate Boundary of Project Area

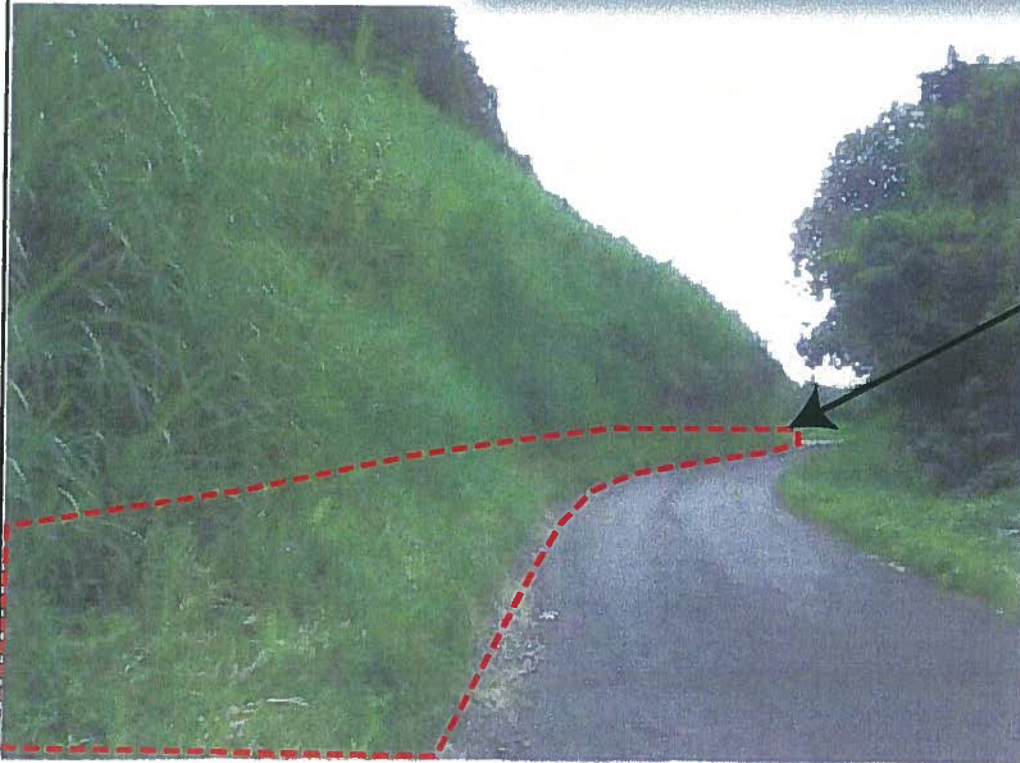


HANA KOALI MESA SUBDIVISION
ROAD WIDENING LOT 2-B

EXHIBIT B,



Approximate Boundary of Project Area



HANA KOALI MESA SUBDIVISION
ROAD WIDENING LOT 2-B

EXHIBIT B₂

*Photographs provided by: Newcomer-Lee Land Surveyors

Hana Koali Mesa Subdivision

Site Photographs (2 of 4)

November
2011





Approximate Boundary of Project Area



HANA KOALI MESA SUBDIVISION
ROAD WIDENING LOT 2-B

EXHIBIT B₃

*Photographs provided by: Newcomer-Lee Land Surveyors

Hana Koali Mesa Subdivision

Site Photographs (3 of 4)

November
2011



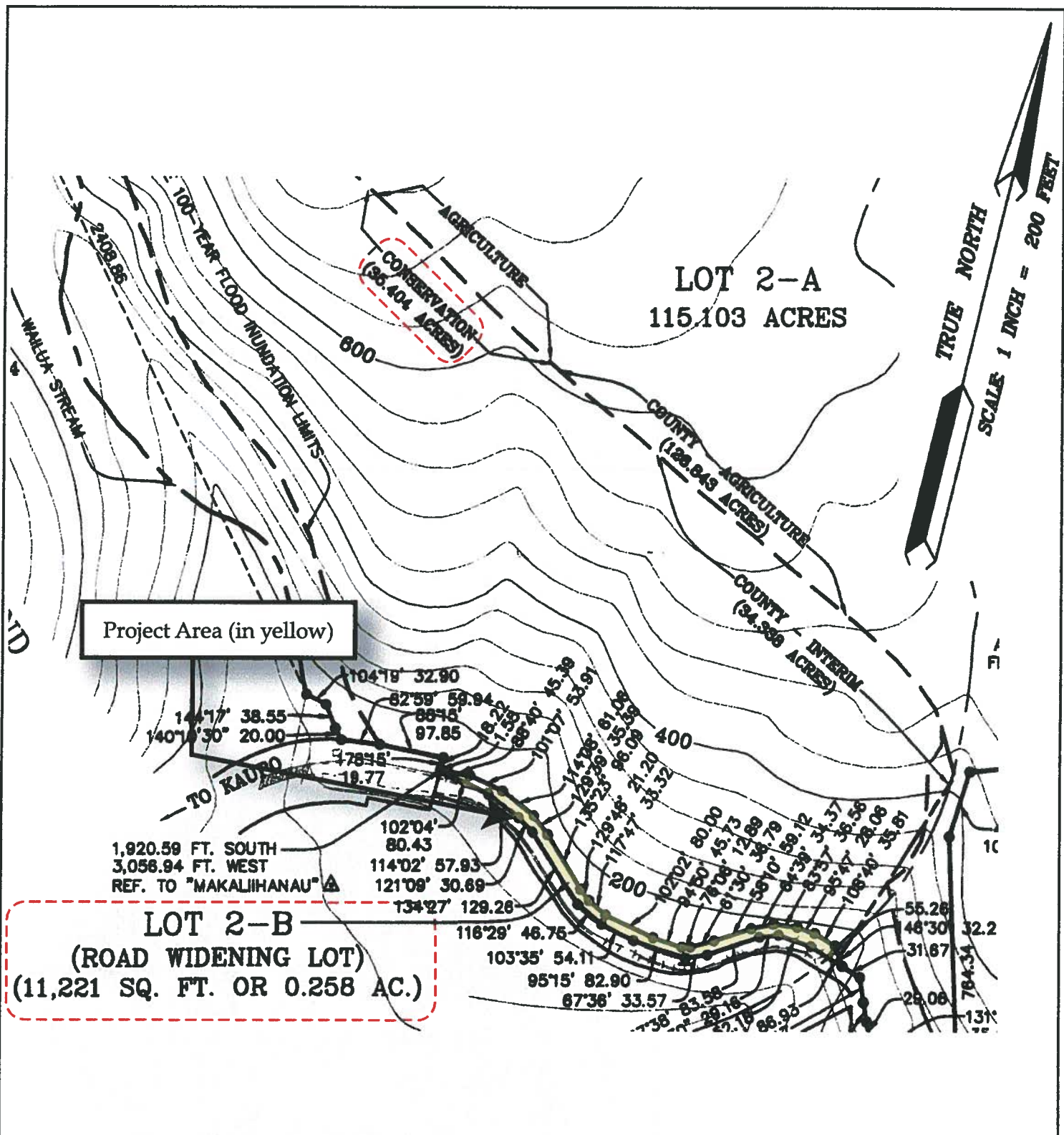


Approximate Boundary of Project Area




HANA KOALI MESA SUBDIVISION
ROAD WIDENING LOT 2-B

EXHIBIT B₄



NOTE: The project scope consists of the subdivision & dedication of a road widening parcel to the County of Maui as a requirement of the subdivision process. The road widening parcel is required to be cleared of obstructions (including vegetation), prior to dedication to the County.

EXHIBIT C

Hana Koali Mesa Subdivision	
Parcel Map - Subdivision Plat Map	

November 2011